



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR ERP LRE MNDCT PSF RP RR

Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* (the "Act") for:

- cancellation of the landlord's 10 Day Notice to End Tenancy for Unpaid Rent (the "Ten-Day Notice") pursuant to section 46;
- an order to the landlord to make emergency repairs to the rental unit pursuant to sections 33 and 62;
- an order to suspend or set conditions on the landlord's right to enter the rental unit pursuant to section 70;
- a monetary order for compensation for damage or loss under the Act, regulation or tenancy agreement pursuant to section 67;
- an order to the landlord to provide services or facilities required by law pursuant to section 62;
- an order to the landlord to make repairs to the rental unit pursuant to sections 32 and 62;
- an order to allow the tenant to reduce rent for repairs, services or facilities agreed upon but not provided, pursuant to section 65;

Both parties attended the hearing and had full opportunity to provide affirmed testimony, present evidence, cross examine the other party, and make submissions. Neither party raised issues of service. I find the parties were served in accordance with the *Act*.

At the commencement of the hearing, the parties both agreed that the tenant had already vacated the rental unit prior to the hearing. Since there is no longer an ongoing tenancy, I dismiss the all of the tenants applications herein, except tenant's application

for a monetary order for compensation for damage or loss under the Act, regulation or tenancy agreement pursuant to section 67, as no longer disclosing a dispute that may be determined under the *Act* pursuant to section 62(4) of the *Act*.

Issue(s) to be Decided

Is the tenant entitled to a monetary order for compensation for damage or loss under the Act, regulation or tenancy agreement pursuant to section 67?

Background and Evidence

The tenant testified that the rental unit has had heating problems since December 2018. The tenant said that he complained about the low temperature multiple times. The tenant testified that when he complained the landlord would send a worker to the property to make repairs which would temporarily restore heat but then the heat would go decrease again.

The landlord testified that he did everything he could to address the heating problems. The landlord testified that the heating contractor advised him that the problem was caused by the presence of sediment in the heating system and this can only be repaired by turning off the heat for the entire building for a prolonged period of time. Accordingly, the landlord testified this repair could only be conducted in the summer. The landlord provided the tenant with a portable heater to provide temporary heat until the heating system could be repaired in the summer.

The tenant complained that the portable heater did not provide adequate heat for the rental unit so the landlord provided a second portable heater. However, the tenant rejected the second heater because he claimed that it was too large to fit in his rental unit.

The tenant testified that he incurred additional electrical costs using the portable to heat his rental unit. The tenant testified that his electric bills were previously approximately \$60.00 per month but the electrical costs had increased to approximately \$160.00 using the portable heater.

Analysis

Section 67 of the *Act* establishes that if damage or loss results from a tenancy agreement or the *Act*, an Arbitrator may determine the amount of that damage or loss and order that party to pay compensation to the other party. The purpose of compensation is to put the claimant who suffered the damage or loss in the same position as if the damage or loss had not occurred. Therefore, the claimant bears the burden of proof to provide sufficient evidence to establish **all** of the following four points:

1. The existence of the damage or loss;
2. The damage or loss resulted directly from a violation – by the other party – of the *Act*, regulations, or tenancy agreement;
3. The actual monetary amount or value of the damage or loss; and
4. The claimant has done what is reasonable to mitigate or minimize the amount of the loss or damage claimed, pursuant to section 7(2) of the *Act*.

In this case, the onus is on the tenant to prove entitlement to a claim for a monetary award. The standard of proof in a dispute resolution hearing is on a balance of probabilities, which means that it is more likely than not that the facts occurred as claimed.

In this matter, I do not find that the tenant has suffered a loss under the tenancy agreement from the lack of heating in the rental unit. I find that the landlord has adequately addressed the problems with the heater by providing temporary portable heating.

However, I do find that the tenant has sustained a loss from the increased electrical costs to heat the rental unit with portable heaters. I accept the tenant's uncontested testimony that the tenant's electrical expenses increased by \$100.00 per month, from \$60.00 per month to \$160.00, as a result of the portable heating expenses. Accordingly, I find that the tenant has sustained a loss of \$600.00 (\$100.00 per month from December 2018 to May 2019). Accordingly, I grant the tenant a monetary order for \$600.00.

Conclusion

I grant the tenant a monetary order in the amount of **\$600.00**. If the landlord fails to comply with this order, the landlord may file the order in the Provincial Court to be enforced as an order of that Court.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: June 05, 2019

Residential Tenancy Branch